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ARENT FOX KINTNER PLOTKIN & KAHN, PLLC
Suite 400
1050 Connecticut Avenue, N.W.
Washington, DC 20036-5339

EXAMINER

MARKS, CHRISTINA M

ART UNIT PAPER NUMBER

3713

9

DATE MAILED: 03/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/986,981

Applicant(s)

DUNLAP, SHAYNE

Examiner

C. Marks

Art Unit

3713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-58 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-58 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Priority

The Examiner again states that acknowledgment is made of applicant's claim for foreign priority based on applications filed in the United Kingdom on 06 December 2000 and 07 September 2001. It is noted, however, that applicant has not filed a certified copy of the UK 0029734.1 and the UK 0121712.4 applications as required by 35 U.S.C. 119(b). If Applicant desires a claim to such priority, the proper certifications must be filed in response to this office action.

Drawings

The Applicant has failed to address the objection to the drawing by the Examiner. The Examiner specifically and with detail pointed out the features that are not properly illustrated in order to precisely inform the Applicant of such information. The Examiner cited specific features as well as large sections of the specification. The Applicant has provided no such rebuttal to the objection, only stated that the new figures are supported by the specification. The Applicant has not shown the Examiner where specific support for *each* of the objected features exists and thus the Examiner maintains the objection that such features are not illustrated in the drawings.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. *The objection to the drawings will not be held in abeyance.*

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the 1) player data including characteristic data, 2) the specifics claimed about the characteristic data, 3) access controls, 4) time restrictions, 5) successful completion requirements, 6) physical token, 7) storage medium,

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8) key data, and 9) quantitative value data must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

The drawings are objected to under 37 CFR 1.83(a) because they fail to show how the player data includes characteristic data that can represent skill data. Further, the player data is not properly illustrated as to show how time restrictions are incorporated. Likewise, there is no illustration regarding the fact that the physical token is a storage medium containing the key data and how this token is used in the invention. Further, character generation is also described but not illustrated. For brevity purposes, the examiner states that pages 8-18 include a number of detailed descriptions relating to the invention that are not illustrated and do not reference a figure number or part. These details must be shown as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d).

Specification

The objection to the specification for having embedded hyperlinks has been withdrawn for the deletion of such in the amendment filed 29 December 2003.

Claim Rejections - 35 USC § 112

The Applicant states that the rejections under this section are due to the fact that the Examiner believes that claims 1-32 fail to point out and distinctly claim patentable subject matter. The Examiner invites the Applicant to review Patent Laws Section 112, which explains that rejections under this section are not for failing to point out and distinctly claim patentable subject matter. §112 rejections are for failing to point and distinctly claim *the* subject matter.

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Determinations of patentability are not accounted for under this section, only whether or not the invention is clearly and distinctly claimed.

Regarding the actual rejections, the Examiner states that while the Applicant has made broad statements regarding the fact that the specification supports the language, no specific and direct sections have been cited to aid the Examiner to find such information. The description of how the system interacts is merely a summary provided in the current amendment and without direct citations cannot be relied on to overcome the rejection which cites specific deficiencies. Therefore, the Examiner maintains the rejection of claims 1-32 for failing to particularly point out and distinctly claim the subject matter.

The Examiner does thank the Applicant for the removal of the indefinite phrase and/or and has withdrawn the corresponding rejections accordingly.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "accepting key data from each user terminal, each of the key data being indicative of a purchase of a physical token and being associated with player data." It is unclear to one of ordinary skill in the art the relationship that exists between the key data, the purchase of the physical token and the player data. One of ordinary skill in the art would not understand the correlation between the three items nor how the key data is used in the gaming system.

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Therefore, for examination purposes, the claims will be evaluated as best understood by one of ordinary skill in the art.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al. (US Patent No. 6,224,486).

Walker et al. disclose a method of interconnecting a plurality of users via a communication network (FIG 1). Walker et al. disclose accepting key data from each user terminal wherein the data is indicative of a token being associated with player data (Abstract). This key data is related to the payment of the entry fee and can be purchased as it is disclosed that digital cash can be used (Column 14, lines 58-67). It is notoriously well known in the art that digital cash can be in the form of a prepaid card, thus the usage of a physical token that is

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purchased would be obvious to one of ordinary skill in the art based upon the above disclosure of Walker et al. Debit cards and credit cards are also embodied on physical tokens. Furthermore, the system authenticates the associated input/output devices the players use, thus authenticating any communication and data sent from them (Column 4, lines 13-17). The system then allows each user to access an online game of skill or chance running on a server and playable via the respective terminal (Column 5, lines 47-51). The system accepts gaming inputs associated with the game from the terminals (Column 6, lines 7-12). Gaming data is provided to each terminal based upon the software and inputs from the user (Column 6, lines 7-12). The gaming data is also based upon the associated player data and key data (Column 6, lines 50-60; Column 7, lines 39-42). Upon completion and on the basis of the gaming software, one or more winners are determined (Column 7, lines 65-67; Column 8, lines 1-27).

Regarding claim 2, the player data includes characteristic data for the player (Column 7, lines 10-12).

Regarding claim 3, the characteristic data includes player strength, a player identity, performance levels, and one or more intellectual, physical or sociological characteristics (Column 7; Column 6, lines 27-49).

Regarding claim 4, the database represents initial values the first time the player registers and these values are updated as the user plays the game (Column 4, lines 30-31).

Regarding claim 5, the users access to the game is controlled by payment and reference to one or more of these characteristics (Column 7, lines 40-42).

Regarding claim 6, the data associated with the player includes time restrictions (Column 4, lines 21-25).

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Claim 17 recites the limitation "accepting key data from each user terminal, each of the key data being indicative of a purchase of a physical token and being associated with player data." It is unclear to one of ordinary skill in the art the relationship that exists between the key data, the purchase of the physical token and the player data. One of ordinary skill in the art would not understand the correlation between the three items nor how the key data is used in the gaming system.

Therefore, for examination purposes, the claims will be evaluated as best understood by one of ordinary skill in the art.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-32, as best understood, and 57-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al. (US Patent No. 6,224,486).

Walker et al. disclose a method of interconnecting a plurality of users via a communication network (FIG 1). Walker et al. also disclose that the devices (users) are preferably connected to the central controller through connections such as the Internet (Column 5, lines 25-30). Walker et al. disclose accepting key data from at least one player through each user terminal wherein the data is indicative of a token being associated with player data (Abstract). This key data is related to the payment of the entry fee and can be purchased as it is disclosed that digital cash can be used (Column 14, lines 58-67). It is notoriously well known in the art that digital cash can be in the form of a prepaid card, thus the usage of a physical token that is purchased would be obvious to one of ordinary skill in the art based upon the

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above disclosure of Walker et al. Debit cards and credit cards are also embodied on physical tokens.

Furthermore, the system authenticates the associated input/output devices the player's use, thus authenticating any communication and data sent from them (Column 4, lines 13-17). The system then allows each user to access an online game of skill or chance via the Internet running on a server and playable via the respective terminal (Column 5, lines 47-51). The system accepts gaming inputs associated with the game from the players at the terminals (Column 6, lines 7-12). Gaming data is provided to each terminal based upon the software and inputs from the user (Column 6, lines 7-12). The gaming data is also based upon the associated player data and key data (Column 6, lines 50-60; Column 7, lines 39-42). Upon completion and on the basis of the gaming software, one or more winners are determined (Column 7, lines 65-67; Column 8, lines 1-27). Prizes can be awarded (Abstract).

Regarding claim 2, the player data includes characteristic data for the player (Column 7, lines 10-12).

Regarding claim 3, the characteristic data includes player strength, a player identity, performance levels, and one or more intellectual, physical or sociological characteristics (Column 7; Column 6, lines 27-49). The usage of other such known characteristic data would be notoriously well known in the art and obvious to a skilled artisan. A skilled artisan is motivated to use specific characteristic data for their system based upon the needs of and function for the system.

Regarding claim 4, the database represents initial values the first time the player registers and these values are updated as the user plays the game (Column 4, lines 30-31).

Regarding claim 5, the users access to the game is controlled by payment and reference to one or more of these characteristics (Column 7, lines 40-42).

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Regarding claim 6, the data associated with the player includes time restrictions (Column 4, lines 21-25).

Regarding claim 7, this time restriction includes a fixed time window beyond which the entry fee for the tournament will no longer be valid (Column 4, lines 21-23).

Regarding claim 8, the time restriction includes a total time period and attempts to access the game after the initial time period are not allowed (Column 4, lines 20-24), as the system would recognize the entry fee has already been used to enable play.

Regarding claim 9, the initial time period can be extended upon a successful completion of a predetermined portion of the game (Column 8, lines 28-43).

Regarding claims 10 and 11, this predetermined portion can include reaching an assigned task of achieving a certain score (Column 8, lines 28-43).

Regarding claim 12, the successful completion includes reaching a predetermined value relating to the score, which is a measure of a combination of the listed elements (Column 8, lines 28-43; Column 15, lines 35-48).

Regarding claim 13, the prize is a cash prize (Column 8, lines 19-21).

Regarding claim 14, the value of the prize can be related to the number of players participating in the game session (Column 16, lines 32-37).

Regarding claim 15, as disclosed above the physical token can be a number of listed items from a credit card, to a debit card, to digital cash, thus as known in the art, the key data associated with payments would be stored on the physical token (Column 14, lines 59-63).

Regarding claim 16, as is known in the art and disclosed above, the physical tokens disclosed by Walker et al. inherently have a magneto-optical storage as is notoriously well known for credit cards.

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Regarding claim 17, Walker et al disclose an apparatus for interconnecting a plurality of users (FIG 1). The apparatus includes a gaming server (FIG 1, reference 102) users can access via the Internet (Column 5, lines 25-30) that is programmed with gaming software (Column 5, lines 47-51). The functionality of the apparatus has been disclosed above in relation to the method and thus would be obvious that the apparatus executes the method.

Regarding claim 18, the player data includes characteristic data for the player (Column 7, lines 10-12).

Regarding claim 19, the characteristic data includes player strength, a player identity, performance levels, and one or more intellectual, physical or sociological characteristics (Column 7; Column 6, lines 27-49). The usage of other such known characteristic data would be notoriously well known in the art and obvious to a skilled artisan. A skilled artisan is motivated to use specific characteristic data for their system based upon the needs of and function for the system.

Regarding claim 20, the database of the central server represents initial values the first time the player registers and these values are updated as the user plays the game (Column 4, lines 30-31).

Regarding claim 21, the users access to the game is controlled by payment and reference to one or more of these characteristics (Column 7, lines 40-42).

Regarding claim 22, the data associated with the player includes time restrictions (Column 4, lines 21-25).

Regarding claim 23, this time restriction includes a fixed time window beyond which the entry fee for the tournament will no longer be valid (Column 4, lines 21-23).

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Regarding claim 24, the time restriction includes a total time period and attempts to access the game after the initial time period are not allowed (Column 4, lines 20-24), as the system would recognize the entry fee has already been used to enable play.

Regarding claim 25, the initial time period can be extended upon a successful completion of a predetermined portion of the game (Column 8, lines 28-43).

Regarding claims 26 and 27, this predetermined portion can include reaching an assigned task of achieving a certain score (Column 8, lines 28-43).

Regarding claim 28, the successful completion includes reaching a predetermined value relating to the score, which is a measure of a combination of the listed elements (Column 8, lines 28-43; Column 15, lines 35-48).

Regarding claim 29, the prize is a cash prize (Column 8, lines 19-21).

Regarding claim 30, the value of the prize can be related to the number of players participating in the game session (Column 16, lines 32-37).

Regarding claim 31, as disclosed above the physical token can be a number of listed items from a credit card, to a debit card, to digital cash, thus as known in the art, the key data associated with payments would be stored on the physical token (Column 14, lines 59-63).

Regarding claim 32, as is known in the art and disclosed above, the physical tokens disclosed by Walker et al. inherently have a magneto-optical storage as is notoriously well known for credit cards.

Regarding claims 57-58, the features have been disclosed above and are incorporated herein. Additionally, Walker et al. discloses that there are many different ways for a player to pay his entry fee such as cash, checks, credit card, digital cash, debit card and bank account (Column 14, lines 59-67). Thus, the method in which the access or key data is input is non-critical and it would be obvious to a skilled artisan that any known method could be used. It is

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known in the art that prepaid cards with numbers exists that are revealed after purchase (i.e. AT&T Prepaid Phone Card) and the incorporation of such would be obvious to a skilled artisan wherein the artisan is motivated by the needs, desires, and functionality required for their system.

Claims 33-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al. (US Patent No. 6,224,486) in view of Barcelou (US Patent No. 6,048,271).

What Walker et al. disclose, teach, and/or suggest has been discussed above and is incorporated herein.

Walker et al. discloses a method of interconnecting a plurality of users via a communication network (FIG 1) wherein a plurality of computer terminals are connected to a remote sever. This connection can be via the Internet (Column 5, lines 25-30). Walker et al. disclose accepting key data from each user terminal wherein the data is indicative of a token being associated with player data (Abstract). This key data is related to the payment of the entry fee and can be purchased as it is disclosed that digital cash can be used (Column 14, lines 58-67). It is notoriously well known in the art that digital cash can be in the form of a prepaid card, thus the usage of a physical token that is purchased would be obvious to one of ordinary skill in the art based upon the above disclosure of Walker et al. Furthermore, the system authenticates the associated input/output devices the player's use, thus authenticating any communication and data sent from them (Column 4, lines 13-17). The system then allows each user to access an online game of skill or chance running on a server and playable via the respective terminal (Column 5, lines 47-51). The system accepts gaming inputs associated with the game from the terminals (Column 6, lines 7-12). Gaming data is provided to each terminal based upon the software and inputs from the user (Column 6, lines 7-12). In the Internet mode,

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this would be done via the Internet. The gaming data is also based upon the associated player data and key data (Column 6, lines 50-60; Column 7, lines 39-42). Upon completion and on the basis of the gaming software, one or more winners are determined (Column 7, lines 65-67; Column 8, lines 1-27).

Walker et al. do not specifically disclose how the physical token is interfaced with the computer terminal wherein the physical token has a memory within which key data is stored.

Barcelou discloses an online game method that enables users to access an interactive game via a computer terminal and a communication link (FIG 2a). Barcelou disclose interfacing a physical token with the computer terminal wherein the physical token has a memory with key data (FIG 2a). In order to achieve the desired functionality of payment for the game, the data is extracted from the physical token and provided to the remote server (Abstract).

It would have been obvious to one of ordinary skill in the art at the time of invention to incorporate the smart card payment method of Barcelou into the system of Walker et al. Barcelou provides the proper interface to work with the disclosure of Walker et al. for payments. Using the disclosure of Barcelou, one of ordinary skill in the art would understand that a smart/card reader (the design and implementation of which are known in the art) would be obvious to the system of Walker et al. in order to implement the functionality of the credit and debit cards, as well as the digital money. One of ordinary skill in the art would be motivated to make this incorporation in order to provide a more convenient interface to the user.

Regarding claim 34, Walker et al. disclose that tournaments can be based on game of luck or chance, i.e. gambling games (Column 12, lines 40-50).

Regarding claim 35, Walker et al. discloses the game is played by a plurality of users via a corresponding terminal (FIG 1).

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Regarding claim 36, the gaming data sent to each of the computer terminals is customized for the user based on the stored data for that user (Column 4, lines 30-35; Column 6, lines 4-12; Column 7, lines 40-45).

Regarding claim 37, Walker et al. discloses a number of cards with a value stored upon them, i.e. debit cards or digital cash. As per the disclosure of Barcelou, one of ordinary skill in the art understands that when digital cash is placed on a smart card, a memory storing the value of the card will be associated with it.

Regarding claims 38 and 39, Walker et al. disclose a slot machine embodiment. However, Walker et al. do not disclose the award outcome associated with the slot game. It is notoriously well known in the art that when a slot machine event is won the quantitative data relating to the award for the event is increased and when the event is lost, the data is decreased.

Regarding claim 40, Walker et al. discloses that records of payment to the player are stored in the central database (Column 16, lines 30-32; Column 6, lines 60-65).

Regarding claim 41, Walker et al. disclose that access to the central server for the game can be limited on a time basis (Abstract).

Regarding claim 42, Walker et al. disclose a fixed time period for the usage of the gaming system. Walker et al. disclose this as a fixed time period set for the game. It would have been obvious to Walker et al. to apply this time period in other manners such as limiting the amount of time the player can play, as opposed to limiting the time frame in which play can occur.

Regarding claim 43, Walker et al. disclose that this time period can be associated with a predetermined time (Column 9, lines 18-2). This time period axiomatically includes a date, as it would be impractical to not associate a time for starting a game with a date for the game.

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Regarding claim 44, Walker et al. discloses awarding the player extended time by moving them from one round to the next (Column 9, lines 40-45). Walker et al. states that this method of rewarding would equal apply to games of chance (Column 9, lines 46-52), such as gambling.

Regarding claim 45, the prize includes the option to extend the original time to access the game, as the player has the option to continue play upon winning (Column 4, lines 37-38).

Regarding claim 46 and 47, a credit is required to access and the token axiomatically includes an initial credit value (Abstract; Column 4, lines 18-20).

Regarding claim 48, if no payment is made, and thus the credit reaches a lower level, access will not be granted into the system (Column 6, lines 49-67).

Regarding claim 49, Walker et al. disclose a number of cards with a value stored upon them, i.e. debit cards or digital cash. As per the disclosure of Barcelou, one of ordinary skill in the art understands that when digital cash is placed on a smart card, a memory storing the value of the card will be associated with it.

Regarding claim 50, Walker et al. disclose cash prizes (Column 8, lines 19-25), thus representing an increase in the number of credits when applied to the key data.

Regarding claim 51, the game is won upon completing a predetermined portion or acquiring a predetermined score (Column 8, lines 29-43).

Regarding claim 52, the prize is a cash prize (Column 8, lines 19-21).

Regarding claim 53, the value of the prize can be related to the number of players participating in the game session (Column 16, lines 32-37).

Regarding claim 54, as disclosed above the physical token can be a number of listed items from a credit card, to a debit card, to digital cash, thus as known in the art the key data associated with their payments would be stored on the physical token (Column 14, lines 59-63).

Regarding claim 55, as is known in the art and disclosed above, the physical tokens disclosed by Walker et al. inherently have a magneto-optical storage as is notoriously well known for credit cards.

Regarding claim 56, an apparatus for enabling the user to access the network would be axiomatic to the method of Walker et al. being carried out and thus would be obvious to the system.

Response to Arguments

Applicant's arguments filed 29 December 2004 have been fully considered but they are not persuasive.

Regarding Applicant's argument that Walker et al. fails to teach and/or suggest accepting key data from at least one player via a user terminal, the key data being indicative of a purchase of a physical token and associated with the player data, the Examiner respectfully disagrees and points the Applicant to the discussion of such features highlighted above in the rejection.

Regarding the Applicant's argument that Walker et al. fails to teach or suggest a communications network including an Internet portion, the Examiner respectfully disagrees and advises the Applicant to specifically view Column 5, lines 25-30 of the Walker et al. patent.

Regarding the Applicant's argument about Walker et al. and credit cards and the transmission of financial details over the Internet, the Examiner points to Column 14, lines 59-67 which highlights a number of applicable means for payment, including digital cash which is no different than a prepaid card which would not require such sensitive transmission as asserted by Applicant.